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6 **UNITED STATES DISTRICT COURT**
7 **SOUTHERN DISTRICT OF CALIFORNIA**
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9 BERNARDO VILLA ARAUJO,
10 Plaintiff,
11 vs.
12 CAROLYN W. COLVIN,
Commissioner of Social Security,
13 Defendant.

CASE NO. 13cv2418-WQH
(JMA)

ORDER

14 HAYES, Judge:

15 The matter before the Court is the review of the Report and Recommendation
16 (ECF No. 14) issued by United States Magistrate Judge Jan M. Adler, recommending
17 that this Court deny Plaintiff's motion for summary judgment (ECF No. 11), and grant
18 Defendant's cross-motion for summary judgment (ECF No. 12).

19 **I. Background**

20 Plaintiff filed an application for Disability Insurance Benefits ("DIB") in
21 December of 2011. (ECF No. 14 at 2). Plaintiff filed an application for Supplemental
22 Security Income ("SSI") in October of 2012. *Id.* Plaintiff's application for DIB was
23 denied initially on April 12, 2012 and upon reconsideration on September 28, 2012. *Id.*
24 On October 11, 2012, Plaintiff requested an administrative hearing, and a hearing was
25 conducted in Tucson, Arizona on April 11, 2013 by Administrative Law Judge ("ALJ")
26 Laura Speck Havens. *Id.* On May 8, 2013 The ALJ determined that Plaintiff was not
27 disabled. *Id.*

28 Plaintiff requested a review of the ALJ's decision. *Id.* On August 8, 2013,

1 Plaintiff's request for review was denied by the Appeals Council for the Social Security
2 Administration ("SSA"). *Id.*

3 On October 8, 2013, Plaintiff commenced this action pursuant to 42 U.S.C. §
4 405(g). (ECF No. 1). On April 29, 2014, Plaintiff filed a motion for summary
5 judgment for reversal and/or remand contending that the ALJ erred in her determination
6 as to step five of the analysis by failing to consult a vocational expert to evaluate the
7 effects of his nonexertional impairments on his ability to perform the full range of light
8 work. (ECF No. 11). On May 27, 2014, Defendant filed a cross-motion for summary
9 judgment contending that the Commissioner's decision was supported by substantial
10 evidence and was free from legal error. (ECF No. 12).

11 On November 14, 2014, the Magistrate Judge issued Report and
12 Recommendation, recommending that the Court deny Plaintiff's motion for summary
13 judgment (ECF No. 11), and grant Defendant's cross-motion for summary judgment
14 (ECF No. 12). (ECF No. 14).

15 The Magistrate Judge determined that: "Only if the adjudicator does not have a
16 clear understanding of the effects of additional limitations on the job base are the
17 services of a vocational specialist or expert necessary. That was not the case here."
18 (ECF No. 14 at 12). The Magistrate Judge concluded that "the ALJ's use of the grids
19 to make a finding of not disabled was appropriate under these circumstances." *Id.*

20 To date, neither party filed objections to the Report and Recommendation.

21 **II. Discussion**

22 The duties of the district court in connection with a report and recommendation
23 of a Magistrate Judge are set forth in Federal Rule of Civil Procedure 72(b) and 28
24 U.S.C. § 636(b)(1). When a party objects to a report and recommendation, "[a] judge
25 of the [district] court shall make a de novo determination of those portions of the
26 [Report and Recommendation] to which objection is made." 28 U.S.C. § 636(b)(1).
27 When no objections are filed, the district court need not review the report and
28 recommendation de novo. *See Wang v. Masaitis*, 416 F.3d 992, 1000 n.13 (9th Cir.


1 2005); *U.S. v. Reyna-Tapia*, 328 F.3d 1114, 1121-22 (9th Cir. 2003). A district court
2 may “accept, reject, or modify, in whole or in part, the findings or recommendations
3 made by the magistrate judge.” Fed. R. Civ. P. 72(b); *see also* 28 U.S.C. § 636(b)(1).

4 Neither party objected to the Report and Recommendation, and the Court has
5 reviewed the Report and Recommendation in its entirety. The Court concludes that the
6 Magistrate Judge correctly found that the ALJ’s use of the grids to make a finding of
7 not disabled was appropriate under the circumstances. The Court adopts the Report and
8 Recommendation in its entirety.

9 **III. Conclusion**

10 IT IS HEREBY ORDERED that the Report and Recommendation (ECF No. 14)
11 is ADOPTED in its entirety. Plaintiff’s motion for summary judgment (ECF No. 11)
12 is DENIED. Defendant’s cross-motion for summary judgment (ECF No. 12) is
13 GRANTED.

14 DATED: January 7, 2015

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16 **WILLIAM Q. HAYES**
17 United States District Judge
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